IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R.No.1983 of 2007

DATE OF DECISION: APRIL 18, 2007

M/s.Rajinder Steel Industries

...PETITIONER

*VERSUS*

State Bank of India

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. V.K.Jindal, Advocate,
for the petitioner.

...

The petitioner, who was the defendant in a suit for recovery filed by the State Bank of India, has filed this petition under Article 227 of the Constitution of India for setting aside the order dated 22.3.2007 passed by Additional District Judge, Karnal, whereby its application under Order XLIV Rule 1 CPC for filing the appeal against the judgment and decree in favour of the respondent-bank as an indigent person, has been dismissed while observing as under:-

> "Report of the Collector, Karnal was called in the matter whereupon it was informed that the appellant is owning House No.19, Gali No.4, Karan Vihar, Karnal. The area of the said plot is 288 Sq.Metre in which A class construction of a cottage has been raised. It is also mentioned that as per the information supplied by the father of Rajinder, the financial condition of Rajinder Kumar is normal. Learned counsel for the applicant had contended that since the appeal has been filed on behalf of the firm, assets of the firm should be taken into account.

Admittedly, Rajinder Kumar son of Mangat Ram is the proprietor of the appellant firm. Thus, he should have disclosed the assets held by him in his application moved before this court. But he did not do so. In Mathew vs. State of Kerala 1996(2) Civil Court Cases 396 (Kerala) it has been held that when an applicant does not disclose an asset held by him in his application, whatever the reason, the application is liable to be rejected. Moreover, it has come on record that the financial status of the applicant is normal and thus it cannot be said that he is not in a position to pay the requisite court fee. That being so, this issue is decided against the applicant."

I have heard the counsel for the petitioner. A specific question was asked to the counsel for the petitioner to the effect that as to whether with the application filed by the petitioner firm under Order XLIV Rule 1 CPC any documents or proof regarding assets of the firm were filed. In reply, it has been stated that no such documents showing the assets of the firm were filed except the Schedule filed with the application. The trial court after taking into consideration that the petitioner has not disclosed the assets of the firm, dismissed the application of the petitioner. I do not find any infirmity or illegality in the said order. No ground for interference in the superintending powers under Article 227 of the Constitution of India is made out.

Dismissed.

April 18, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE